

PT 98-90

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**AMERICAN LEGION POST #134
OF MORTON GROVE,
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

No: 98-PT-0014

**Real Estate Tax Exemption
For 1995 Tax Year**

**P.I.N.S: 10-17-314-001
10-17-314-002
10-17-314-003
10-17-315-032
10-17-315-044**

Cook County Parcels

**Robert C. Rymek
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

SYNOPSIS

This proceeding raises the issue of whether Cook County Parcel Index Numbers 10-17-314-001, 10-17-314-002, 10-17-314-003, 10-17-315-032, and 10-17-315-044 (hereinafter the “subject property”) should be exempt from 1995 real estate taxes under Section 15-145 of the Property Tax Code which states:

“All property of veterans’ organizations used exclusively for charitable, patriotic and civic purposes is exempt [from real estate taxation].” 35 ILCS 200/15-145 (West 1996).

This controversy arose as follows:

On January 22, 1996, the applicant, American Legion Post #134 of Morton Grove, filed a Property Tax Exemption Complaint with the Cook County Board of (Tax) Appeals. The Board reviewed the applicant's complaint and on March 28, 1996, recommended that the applicant's exemption request be denied. On October 3, 1996, the Illinois Department of Revenue (hereinafter the "Department") adopted the Board's recommendation and denied the exemption concluding that the subject property was not in exempt ownership or exempt use. The applicant filed a timely appeal from the Department's denial of exemption. On September 18, 1998, a formal administrative hearing was held at which evidence was presented. Following a careful review of all the evidence it is recommended that the subject parcel not be exempted from 1995 real estate taxes.

FINDINGS OF FACT

1. Dept. Gr. Ex. No. 1 establishes the Department's jurisdiction over this matter and its position that the subject parcel was not in exempt use or exempt ownership during 1995.
2. The applicant's constitution indicates that its membership is restricted to veterans of the United States military. App. Gr. Ex. No. 1. Doc. B.
3. Applicant was organized on March 12, 1946, under the General Not for Profit Corporation Act. App. Gr. Ex. No. 1. Doc A.
4. Applicant's express purposes include, inter alia:
 - (a) upholding and defending the United States Constitution;
 - (b) fostering Americanism;
 - (c) preserving the memories of the "Great Wars"; and
 - (d) safeguarding the principles of justice, freedom, and democracy.App. Gr. Ex. No.1, Docs. A, C.

5. The subject property was made the subject of a trust deed indenture on December 18, 1958, which listed the applicant as the debtor and the First National Bank of Morton Grove as the trustee. The indenture was paid off prior to 1970 which, under the terms of the indenture, resulted in the subject property being reconveyed back to the applicant. App. Gr. Ex. No. 3, Tr. p. 20.
6. The subject property is located at the corner of Georgiana Street and Dempster Avenue in Morton Grove. App. Gr. Ex. No.3; Dept. Ex. No. 3; Tr. pp. 29-33.
7. Parcels 10-17-314-001, 10-17-314-002, 10-17-314-003 are unimproved and used as parking lots. Dept. Ex. No. 3; Tr. pp. 29-33.
8. Parcels 10-17-315-032, and 10-17-315-044 are adjacent to each other and improved with a large two-story building (hereinafter the “main building”) and a garage. App. Gr. Ex. No. 4; Dept. Ex. No. 3; Tr. pp. 29-31.
9. A gun club and a railroad club use the basement of the main building. Tr. pp. 39.
10. The gun club has its range in the building and pays no rent. Between 95% and 100% of the members of the gun club are also be members of the applicant. Tr. pp. 10, 40.
11. The main building also contains a bar called “Club 134” which is available for use by each member once a year for a party. In 1995 Club 134 was used for private parties approximately a dozen times. Club 134 is also open for the applicant’s board meetings. Tr. pp. 26-27.

12. The main building has a central meeting hall with another bar, which is separate and distinct from Club 134. Tr. p. 33.
13. The central meeting hall was used both by the applicant and by a number of other groups in 1995 for the following events:
 - (1) Legion Super Bowl Party (date unspecified);
 - (2) Auxiliary Spring Lunch (Feb. 18);
 - (3) Knights of Columbus Dance (Feb. 25);
 - (4) Legion St. Patrick's Day Party (March 11);
 - (5) Legion Rock And Roll Party (April 1);
 - (6) Village Election Night (April 4);
 - (7) Village Easter Egg Hunt (date unspecified);
 - (8) Women's Club Luncheon (April 16);
 - (9) Morton Grove Gun Club annual dinner (April 21);
 - (10) Retirement of a member (April 22);
 - (11) Fireworks fundraiser pasta night (May 11);
 - (12) Lions Club Spring Dance (May 23);
 - (13) Julia Molloy School¹ awards party (May 30);
 - (14) Police retirement party (June 10);
 - (15) Pasta fundraiser for an unspecified civic group (June 29);
 - (16) Morton Grove Baseball Awards Ceremony (July 15);
 - (17) Annual Picnic by another Legion Post (July 23);
 - (18) St. Martha picnic (July 29);
 - (19) Firefighter promotion dinner (July 30);

¹ The Julia Molloy School is a school for handicapped children. Tr. pp. 11-12.

- (20) Muscular Dystrophy Association picnic (Aug. 7);
- (21) Legion officer installation (Aug. 18);
- (22) VJ Day party (Aug. 26);
- (23) Eagle Scout awards (Sept. 9);
- (24) Legion and Auxiliary officer installation (Sept. 16);
- (25) Village Gazebo dedication (Sept. 23);
- (26) Past Legion Commanders' Dinner (Oct. 14);
- (27) Legion Veteran's Day Dance (Nov. 11);
- (28) Bnai Brith children's fundraiser (Nov. 19);
- (29) Village Children's Holiday Party (Dec. 16); and
- (30) Legion New Year's Eve Dance (Dec. 31).

Tr. pp. 8-16.

- 14. Four times a year, the applicant holds blood drives. Tr. p. 29.
- 15. The applicant occasionally rent its hall out to nonmembers. Tr. p. 28.
- 16. The applicant's members engage in monthly visits to hospitals to provide aid and comfort to hospitalized veterans. Tr. pp. 23-26.

CONCLUSIONS OF LAW

An examination of the record establishes that this applicant has not demonstrated by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant an exemption from property taxes for the 1995 assessment year. Accordingly, under the reasoning given below, the determination by the Department that the subject parcels do not qualify for exemption should be affirmed. In support thereof, I make the following conclusions:

The applicant is seeking a property tax exemption under Section 15-145 of the Property Tax Code, which provides:

“All property of veterans’ organizations used exclusively for charitable, patriotic and civic purposes is exempt.” 35 ILCS 200/15-145 (1996).

Thus, to be entitled to the property tax exemption, the applicant must show that: (1) the subject property was owned by a veteran’s organization; and (2) the subject property is used exclusively for charitable, patriotic and civic purposes. North Shore Post No. 21 of the American Legion v. Korzen, 38 Ill. 2d 231 (1967). The applicant bears the burden of proving the right to exemption and all debatable questions are resolved in favor of taxation. *Id.*

Here, the only evidence that the applicant owned the subject property was an old indenture trust deed (App. Gr. Ex. No. 3) and testimony that the indenture had been paid (Tr. p. 20). This was not ideal evidence of current ownership. However, in light of the fact that the applicant appeared pro se and the fact that there was no evidence that would call applicant’s ownership into question, I find that the applicant’s evidence of ownership was sufficient for purposes of this case. I further find that applicant has adequately established that it is a veteran’s organization by showing that the applicant’s membership is restricted to veterans of the United States military. Thus, I conclude that the applicant has satisfied the first requirement for exemption under Section 15-145, by showing that the subject property is owned by a veteran’s organization.

However, after carefully reviewing the record, I conclude that the applicant has failed to satisfy the second requirement of Section 15-145, because the evidence presented did not establish that the subject property be “used exclusively for charitable, patriotic and civic purposes.” (Emphasis added) 35 ILCS 200/15-145 (1996). The word

“exclusively,” when used in Section 15-145 and other tax exemption statutes means “the primary purpose for which property is used and not any secondary or incidental purpose.” Gas Research Institute v. Department of Revenue, 154 Ill. App. 3d 430 (1987); Pontiac Lodge No. 294, A.F. & A.M. v. Department of Revenue, 243 Ill. App. 3d 186 (1993).

Here, the evidence establishes that in 1995 the subject property was used primarily for the social and recreational activities of the applicant’s members and others whom the applicant allowed to use the premises. Although portions of the subject property were sometimes used for charitable, patriotic, and civic purposes, the majority of the use of the subject property was for social and recreational purposes such as dances, parties, gun club activities, train club activities, organizational dinners, and other such events which our supreme court has previously concluded constitute non-exempt use. See, generally, North Shore Post No. 21, *supra*; Rodgers Park Post No. 108 v. Brenza, 8 Ill. 2d 286 (1956).

WHEREFORE, for the reasons set forth above, I recommend that the subject parcels be denied exemption from 1995 real estate taxes.

Date

Robert C. Rymek
Administrative Law Judge